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EXAMINER	
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte YUVAL BERENSTAIN and
MICHAEL SHVARTZMAN

Appeal 2008-2518
Application 10/667,419
Technology Center 1700

Decided: September 12, 2008

Before BRADLEY R. GARRIS, JEFFREY T. SMITH, and
KAREN M. HASTINGS, *Administrative Patent Judges*.

SMITH, *Administrative Patent Judge*.

DECISION ON APPEAL

This is a decision on an appeal under 35 U.S.C. § 134 from the Primary Examiner's final rejection of claims 1-9, 13-25, and 29-34.[1] We have jurisdiction pursuant to 35 U.S.C. § 6.

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[1] In rendering this decision we have considered the Appellants' arguments presented in the Appeal Briefs dated May 13, 2007, and October 23, 2007.

Appellants' invention is directed to a method for applying a finishing agent to non-woven fabric during the production of the non-woven fabric. The method comprises applying the finishing agent to less than 100% of a surface area of said nonwoven fabric using a rotary screen printer, while the moisture content of said nonwoven fabric is greater than 10% by weight. (Spec. 14-15). Claim 1 is representative of the invention and is reproduced below:

> 1. A method for applying a finishing agent to non-woven fabric during product of the non-woven fabric, the method comprising:
>
> (a) providing a production line for producing a web of non-woven fabric;
>
> (b) substantially continuously forming a web of non-woven fabric using an apparatus for forming said non-woven fabric deployed in said production line, said nonwoven fabric having a moisture content greater than 10%;
>
> (c) passing said non-woven fabric from said apparatus for forming a nonwoven fabric to a rotary screen printer deployed in said production line, said moisture content remaining greater than 10%;
>
> (d) applying the finishing agent to less than 100% of a surface area of said nonwoven fabric using said rotary screen printer, while said moisture content of said nonwoven fabric is greater than 10% by weight; and
>
> (e) subsequently drying said non-woven fabric together with said finishing agent using a drying unit deployed in said production line.

The Examiner has relied on the following prior art references as evidence of obviousness:

Jellinek	US 4,810,751	Mar. 7, 1989
Dewsbury	GB 2292082A	Feb. 14, 1996
Wang	US 5,935,880	Aug. 10, 1999
Dong	WO 02/060702 A2	Aug. 2, 2002

ISSUES ON APPEAL

Claims 1-9, 13-25, and 29-34 stand rejected as follows:

A) Claims 1, 2, 4, 6-9, 13-15, 17-19, 21, 23-25, 29-31, 33, and 34, stand rejected under 35 U.S.C. § 103(a) as unpatentable over Dong and Jellinek.

B) Claims 3, 5, 20, and 22 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Dong, Jellinek, and Wang.

C) Claims 16 and 32 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Dong, Jellinek, and Dewsbury.

The Examiner contends that Dong discloses a production line process for applying a finishing agent, such as a coating, colorant, or surface active materials to a nonwoven material. (Ans. 4). The Examiner contends that Jellinek teaches rotary screen printing of nonwoven substrates. (Ans. 5). The Examiner concludes that it would have been obvious to a person of ordinary skill in the art to utilize a rotary screen printer in the process of Dong. (Ans. 5).

Appellants contend that Dong does not teach the application of dyes and pigments (finishing agents) in any suitable and aesthetically desirable fashion to a nonwoven fabric. (App. Br. 8). Appellants contend that Dong

does not disclose the inclusion of nonwoven fabric with regard to the decorative layer. (App. Br. 9). Appellants contend that since Dong does not teach the application of dyes and pigments in any suitable and aesthetically desirable fashion to a nonwoven fabric there would not be motivation to combine the teachings of Dong and Jellinek. (App. Br. 10-11).

The issue presented is: Did Appellants identify reversible error in the Examiner's rejection of claim 1 under § 103? We answer this question in the negative. The issue turns on whether Dong discloses the application of finishing agents to a nonwoven fabric.

We have thoroughly reviewed each of Appellants' arguments for patentability. However, we are in complete agreement with the Examiner that the claimed subject matter is not patentable within the meaning of § 103 in view of the applied prior art. Accordingly, we will sustain the Examiner's rejections.

OPINION

We determine the following Findings of Fact (FF) from the record presented in this appeal:

(1) Dong relates to multilayered decorative laminates that include various patterns such as wood grains. (Dong 1, ¶ 1).

(2) Dong discloses the underlay (print through prevention layer) can be visible on the laminate surface. (Dong 8, l. 8).

(3) Dong discloses the underlay is designed to match the decorative layer. (Dong 9, ll. 19-21).

(4) Dong discloses the underlay can be formed from nonwoven reinforced polymers. (Dong 11, ll. 12-14).

(5) Dong discloses the underlay can be colored with a pigment. (Dong 10, l. 33).

(6) Dong discloses the underlay is formed by preparing a nonwoven material utilizing a wet laid compound. (Dong 9, ll. 27-33).

(7) Dong discloses a variety of components equivalent to the claimed finishing agents can be utilized to treat the polymeric components. (Dong, col. 16, l. 32- col. 17, l. 6).

(8) Jellinek discloses the rotary screen printing of nonwoven substrates. (Jellinek, col. 4, ll. 15-51).

(9) The term "finishing agent" refers to any additive, coating, or colorant that may be added to non-woven fabric. (Spec. 10).

Under 35 U.S.C. § 103, the factual inquiry into obviousness requires a determination of: (1) the scope and content of the prior art; (2) the differences between the claimed subject matter and the prior art; (3) the level of ordinary skill in the art; and (4) secondary considerations, if any. *See Graham v. John Deere Co. of Kansas City,* 383 U.S. 1, 17-18 (1966). "[A]nalysis [of whether the subject matter of a claim is obvious] need not seek out precise teachings directed to the specific subject matter of the

challenged claim, for a court can take account of the inferences and creative steps that a person of ordinary skill in the art would employ." *KSR Int'l Co. v. Teleflex, Inc.,* 127 S. Ct. 1727, 1740-41 (2007). "[I]f a technique has been used to improve one device, and a person of ordinary skill in the art would recognize that it would improve similar devices in the same way, using the technique is obvious unless its actual application is beyond his or her skill." *Id. See also DyStar Textilfarben GmBH & Co. Deutschland KG v. C.H. Patrick Co.*, 464 F.3d 1356, 1361 (Fed. Cir. 2006) ("The motivation need not be found in the references sought to be combined, but may be found in any number of sources, including common knowledge, the prior art as a whole, or the nature of the problem itself.").

Applying the preceding legal principles to the Factual Findings (FF) in the record of this appeal, we determine that the Examiner has established a prima facie case of obviousness, which prima facie case has not been adequately rebutted by Appellants' arguments.[2] As shown by FF (1-7) above, Dong discloses a production line process for applying a finishing agent, such as required by the claimed invention, to a nonwoven material. Dong discloses the underlay can be colored with a pigment and be visible on the laminate surface. Dong discloses the underlay should be designed to match the decorative layer. Thus, a person of ordinary skill in the art would have recognized that the underlay could have a pigment pattern that would

[2] Appellants have grouped the arguments for claims 1, 2, 4, 6-9, 13-15, 17-19, 21, 23-25, 29-31,, 33, and 34 together. Consequently, claims 2, 4, 6-9, 13-15, 17, 18, 21, 23-31, 33, and 34 will stand or fall with independent claims 1 and 19. Our analysis will be limited to claim 1.

complement the decorative layer. A person of ordinary skill in the art would have reasonably expected that the utilization of known printing processes including rotary printing would have been suitable for the production process of Dong.

A person of ordinary skill in the art would have recognized the suitability of applying a finishing agent to the nonwoven underlay of Dong in a pattern that complements the decorative layer. However, contrary to Appellants' arguments, the claims do not require the application of a finishing agent to provide aesthetically pleasing designs to the nonwoven.

Appellants' arguments (App. Br. 12-13; Reply. Br. 5) regarding the application of the additives to less than 100% of the nonwoven material are not persuasive. A person of ordinary skill in the art would have sufficient skill to apply the appropriate amount of finishing agent to a nonwoven substrate. A person of ordinary skill in the art would recognize that if the property of finishing agent were not desired for the entire substrate, then application of the finishing agent should appropriately be limited to less than 100% of the substrate.

Regarding the rejections of claims 3, 5, 16, 20, 22, and 32 under 35 U.S.C. § 103(a), we affirm the rejections advanced by the Examiner. Appellants essentially rely on the arguments presented for claim 1 addressed above. (App. Br. 13-14). Appellants do not assert non-obviousness based on the additional limitations set forth in claims 3, 5, 16, 20, 22, and 32 subject to these rejections by explaining how the additional references applied thereto by the Examiner fail to establish the obviousness of the additional features recited in these separately rejected claims. Because we

do not find Appellants' arguments persuasive as to independent claim 1, it follows that these arguments are unpersuasive as to claims 3, 5, 16, 20, 22, and 32.

For the foregoing reasons and those stated in the Answer, we affirm all grounds of rejection presented in this appeal.

ORDER

The rejections of claims 1-9, 13-25, and 29-34 under 35 U.S.C. § 103(a) are affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED

PL Initial:
Sld

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